

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

J.M. DAVIDSON, LTD.

Plaintiff,

V.

**DREDGE BECCA SUE, its engines,
tackle, appurtenances, etc., *in rem*, and
DREDGE LADY DIANA, its engines,
tackle, appurtenances, etc., *in rem***

Defendant.

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CIVIL ACTION NO. 2:21-cv-272

Admiralty Fed. R. Civ. P. 9(h)

**PLAINTIFF’S ORIGINAL VERIFIED COMPLAINT AND
MOTION FOR ORDER TO ARREST VESSELS**

Plaintiff J.M. Davidson, Ltd. (“J.M. Davidson”) files this Original Verified Complaint against, and Motion to Arrest, the DREDGE BECCA SUE, its engines, tackle, appurtenances, etc., *in rem*, and the DREDGE LADY DIANA, its engines, tackle, appurtenances, etc., *in rem*, (the “Vessels”) alleging as follows:

I. JURISDICTION AND VENUE

1.1 This is a claim for breach of a maritime charter party, which gives rise to a maritime lien, within the admiralty and maritime jurisdiction of the United States and this Honorable Court in accordance with Section 1333 of Title 28 of the United States Code, Rule 9(h) of the Federal Rules of Civil Procedure, Rule C of the Supplemental Rules for Certain Admiralty & Maritime Claims, and Section 31301 of Title 46 of the United States Code. The General Maritime Law of the United States is thus invoked. In addition, this is an action commenced to obtain security in aid of an anticipated arbitration, and is authorized by the Federal Arbitration Act, 9 U.S.C. § 8.

1.2 Venue is proper in this Court under 28 U.S.C. § 1391(b) because all or a substantial part of the events or omissions giving rise to the claim occurred in the Southern District of Texas and all or a substantial part of the property that is the subject of the action is situated in the Southern District of Texas.

II. PARTIES

2.1 J.M. Davidson is a Texas partnership with its principal office located in San Patricio County, Texas.

2.2 The Dredge BECCA SUE is a vessel located within the Southern District of Texas and amenable to service at J.M. Davidson's marine yard at 1555 South Main Street, Ingleside, Texas, 78342, within the Southern District of Texas.

2.3 The Dredge LADY DIANA is a vessel located within the Southern District of Texas and amenable to service at J.M. Davidson's marine yard at 1555 South Main Street, Ingleside, Texas, 78342, within the Southern District of Texas.

III. FACTS

3.1 On or around April 22, 2001, J.M. Davidson chartered the Vessels from Dredgit Corporation ("Dredgit"). A true copy of that charter agreement is attached as Exhibit A and referred to herein as the Agreement.

3.2 The Vessels were chartered for use in or near Cedar Bayou in Aransas County, Texas, within the Southern District of Texas. At all material times, the Vessels were located within the Southern District of Texas, in or near Aransas County.

3.3 Throughout the duration of the charter, both of these Vessels were in poor condition, were poorly maintained, frequently broke down, and did not meet the obligations set

forth in the Agreement as a result. Dredgit and the Vessels therefore breached the Agreement for charter of the Vessels.

3.4 This breach directly and proximately caused J.M. Davidson significant damages. These damages include, without limitation, costs associated with repairs to the Vessels, berthing fees and other costs when the Vessels were inoperable, costs associated with mobilization and demobilization of alternate vessels and equipment, lost revenue associated with an incomplete project, and remobilization, demobilation, and other costs associated with completing the work in the future.

3.5 At all times material, J.M. Davidson mitigated its damages in a commercially reasonable manner.

IV. CLAIMS

4.1 By reason of the foregoing, J.M. Davidson is the holder of a maritime claim and lien against the Vessels, *in rem*, in an amount that exceeds the value of the Vessels, exclusive of interests, costs and fees for which the maritime remedies of Arrest and Attachment are available pursuant to Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims and pursuant to the Federal Rules of Civil Procedure and the Federal Arbitration Act.

4.2 The Agreement includes an arbitration clause and J.M. Davidson anticipates that J.M. Davidson and/or Dredgit may ultimately submit some or all of this dispute to arbitration. However, J.M. Davidson initiates this *in rem* action to obtain security regardless of whether this matter is ultimately arbitrated as authorized by 9 USC § 8 and Rule C of the Supplemental Rules for Certain Admiralty & Maritime Claims.

V. PRAYER

5.1 J.M. Davidson respectfully prays:

- (a) That process in due form of law, according to the practice of this Honorable Court in causes of admiralty and maritime jurisdiction, may issue against the Vessels, their engines, tackle, appurtenances, etc., and that all persons owning or claiming any interest in either of the Vessels may be cited to appear and answer the matters aforesaid, and that the Vessels, their engines, tackle, appurtenances, etc., shall be seized and may be condemned and sold to pay the demands of J.M. Davidson aforesaid, together with interest, fees and costs.
- (b) That a Rule C lien may be declared to be a valid and subsisting lien upon the Vessels, their engines, tackle, appurtenances etc., and prior and superior to the interest, liens and claims of any and all persons, firms or corporations whatsoever.
- (c) That judgment be issued against the Vessels, and her engines, tackle, appurtenances, etc., *in rem*, in the full amount demanded under this Complaint, as it may be amended, plus interest, charges, the cost of seizure and custodian expenses, other costs and attorneys' fees, as well as any and all other amounts required to be paid to J.M. Davidson as a result of its damages described above;
- (d) That in due course, the Vessels be ordered sold, and that the proceeds of the sales be applied to the amounts owed to J.M. Davidson; and
- (e) That J.M. Davidson have such other and further relief as in law, admiralty, and justice it may be entitled to recover.

Respectfully submitted,

/s/Jack C. Partridge

Jack C. Partridge, Attorney in Charge

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**ATTORNEY FOR PLAINTIFF,
J.M. DAVIDSON, LTD.**

OF COUNSEL:

ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P.

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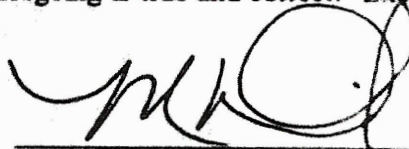
Admiralty Fed. R. Civ. P. 9(b)

VERIFICATION AND DECLARATION OF
MARSHALL DAVIDSON

My name is Marshall Davison. I am over the age of 21, of sound mind, and have never been convicted of a felony. I am Vice-President (position with company) of J.M. Davidson, Ltd. and am authorized to make this verification and declaration on behalf of J.M. Davidson, Ltd..

I have read J.M. Davidson, Ltd.'s Original Verified Complaint and know the contents thereof contained in Section III. Based upon my own personal knowledge and records kept in the ordinary course of business, the information contained in Section III of said Complaint is true and correct.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 18th day of November, 2021.



Marshall Davidson